

# **SOUTH CAROLINA HAZARDOUS WASTE MANAGEMENT REGULATIONS**

**June 27, 2003**



**Promulgated Pursuant to Sections 48-1-10 et seq. and 44-56-30  
of the 1976 South Carolina Code of Laws**

**R. 61-79.124**  
**Previously Amended June 28, 2002**  
(federal compliance)

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### **Note to Users**

This amendment to R.61-79 is effective June 27, 2003, superseding a June 28, 2002, amendment.

The federal equivalent to R. 61-79 is amended throughout the year. The State is required to adopt certain federal amendments to maintain authorization by the United States Environmental Protection Agency for the State Hazardous Waste Management Program.

This State amendment reflects federal amendments published in the Federal Register prior to June 30, 2002. Recent amendments include: a clarifying revision to the Mixture and Derived-From Rules; new listings for three inorganic chemical manufacturing wastes including additional toxic constituents and treatment standards for the wastes; amendments to the Corrective Action Management Unit rule to facilitate cleanup; and deletion of regulatory language vacated by two federal court actions for some mineral processing secondary materials and the application of the Toxicity Characteristic Leaching Procedure to manufactured gas plant wastes. In addition, the Bureau will make amendments to the Hazardous Air Pollutant Standards for Combustors.

All DHEC regulations are available from the  
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For further information about the State's hazardous waste regulations,  
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This copy of the regulation is provided by the Department of Health and Environmental Control (Department) for the convenience of the public. While every effort has been made to ensure its accuracy and completeness, it is not the official text. The Department reserves the right to withdraw or correct the text if deviations are found from the official text as published in the State Register.

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## 124 - PROCEDURES FOR DECISION MAKING

### Subpart A - General Program Requirements

#### 124.1 Purpose and scope

(a) This part contains procedures for issuing, modifying, revoking and reissuing, or terminating all hazardous waste treatment, storage, and disposal facility permits under these regulations, other than "emergency permits" (see 270.61) and "permits by rule" (270.60). The latter kinds of permits are governed by part 270. Interim status is not a "permit" and is covered by specific provisions in part 270. The procedures of this part also apply to denial of a permit for the active life of a RCRA hazardous waste management facility or unit under 270.29. (12/93).

(b) This regulation describes the steps which will be followed in receiving permit applications, preparing draft permits, issuing public notice, inviting public comment and holding public hearings on draft permits. Also covered is

assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of the final permit decision (11/90, 12/92, 12/93).

#### 124.2 Definitions

(a) In addition to the definitions given in 270.2 and S.C. Hazardous Waste Management Act Section 44-56-20, the definitions listed below apply to this Part. Terms not defined in this section have the meaning given by the appropriate Act.

"Administrator" means the Administrator of the U.S. Environmental Protection Agency, or an authorized representative (12/92).

"Applicable standards and limitations" means all State, interstate, and Federal standards and limitations to which a "discharge," a "sludge or disposal practice" or a related activity is subject under the CWA, including "standards for sewage sludge use or disposal," "effluent limitations," water quality standards, standards of performance, toxic effluent standards or prohibitions, "best management practices," and pretreatment standards under Sections 301, 302, 303, 304, 306, 307, 308, 403, and 405 of CWA. (11/90; 12/92)

"Application" means the forms for applying for a permit under these regulations, including any additions, revisions, or modifications to the forms. Application also includes the information required under parts 270.14 through 270.29 (contents of Part B of the RCRA application) (12/92).

"Appropriate act and regulations" means the S. C. Pollution Control Act (PCA); the S.C. Hazardous Waste Management Act, or S.C. State Safe Drinking Water Act, whichever is applicable; and applicable regulations promulgated under those statutes.

"CWA" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act of Federal Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 95-217 and Pub. L. 95-576; 33 U.S.C. 1251 et seq (12/92).

"Draft permit" means a document prepared under 124.6 indicating the Department's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit." A notice of intent to terminate a permit and a notice of intent to deny a permit as discussed in 124.5, are types of "draft permits." A denial of a request for modification, revocation, and reissuance or termination, as discussed in 124.5, is not a "draft permit." A "proposal permit" is not a "draft permit" (12/92; 12/93).

"EPA" means the U. S. Environmental Protection Agency (12/92).

"Facility or activity" means any HWM facility or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the RCRA program and the Pollution Control Act (12/93).

"Indian Tribe" means (except in the case of RCRA) any Indian Tribe having a Federally recognized governing body carrying out substantial governmental duties and powers over a defined area (12/93).

"Interstate agency" means an agency of two or more States established by or under an agreement or compact approved by the Congress, or any other agency of two or more States having substantial powers or duties pertaining to the control of pollution as determined and approved by the Department under the "appropriate Act and regulations." (12/93)

"Major facility" means any RCRA "facility or activity" classified as such by the Department (12/93).

"Owner or operator" means owner or operator of any facility or activity subject to regulation under the RCRA program and the Pollution Control Act (12/92).

"Permit" means an authorization, license, or equivalent control document issued by South

Carolina to implement the requirements of this part and 270. Permit includes RCRA "permit by rule" (270.60). Permit does not include RCRA interim status (270.70) or any permit which has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit" (12/92).

"Person" means an individual, association, partnership, corporation, municipality, State, Federal, or Tribal agency, or an agency or employee thereof (12/92).

"RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609, 42 U.S.C. 6901 et seq) (12/92).

"Regional Administrator" means the Regional Administrator of the appropriate Regional Office of the Environmental Protection Agency or the authorized representative of the Regional Administrator (12/93).

"Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the appropriate Act and regulations (12/92).

"SDWA" means the Safe Drinking Water Act (Pub. L. 95-523, as amended by Pub. L. 95-1900; 42 U.S.C. 300f et seq.)

"Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity (12/92).

"State Safe Drinking Water Act" means 44-55-10 et seq (12/92).

"Variance" means any mechanism or provision which allows modification to or waiver of the generally applicable requirements of 124, 270, 260 through 266.

(b) For the purposes of part 124, the term "Department" means the Department or Regional Administrator and is used when the accompanying provision is required of EPA-administered programs and of State programs under 40 CFR 271.14 (RCRA). The term "Regional Administrator" is used when the accompanying provision applies exclusively to EPA-issued permits and is not applicable to State programs under these sections. While South Carolina is not required to implement these latter provisions, they are not precluded from doing so, notwithstanding use of the term "Regional Administrator" (12/93).

(c) The term "formal hearing" means any evidentiary hearing under subpart E or any panel hearing under subpart F but does not mean a public hearing conducted under 124.12 (12/93).

### 124.3 Application for a permit

(a) (1) Any person who requires a permit under these regulations shall complete, sign, and submit to the Department an application for each permit required under 270.1 and meet the public notice requirements under 124.10. Applications are not required for permits by rule 270.60 (6/89; 12/92).

(2) The Department shall not begin the processing of a permit under these regulations until the applicant has fully complied with the application requirements for that permit. See 270.10, .11, and .13, Subpart B and applicable sections of R-61-79.264 which describe the information required in permit applications. (11/90; 6/95)

(3) Permit applications must comply with the signature and certification requirements of 270.11.

(b) [Reserved]

(c) The Department shall review for completeness every application for a permit under these regulations. Each application for a permit submitted by a new HWM facility should be reviewed for completeness by the Department within 30 days of its receipt. Each application for a permit submitted by an existing HWM facility (both Parts A and B of the application), should be reviewed for completeness within 60 days of receipt. Upon completing the review, the Department shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Department shall list the information necessary to make the application complete. When the application is for an existing HWM facility, the Department shall specify in the notice of deficiency a date for submitting the necessary information. After the application is completed, the Department may request additional information from an applicant but only where necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete. (11/90)

(d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the applicable statutory provisions of SC 44-56-140 and RCRA section 3008 (12/92).

(e) If the Department decides that a site visit is necessary for any reason in conjunction with the processing of an application, it will notify the applicant and a date shall be scheduled.

(f) The effective date of an application is the date on which the Department notifies the applicant that the application is complete as provided in paragraph (c) of this section.

### 124.4 [Reserved]

### 124.5 Modification, revocation & reissuance, termination of permits under these regulations (12/92)

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Department's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in 270 Subpart D. All requests shall be in writing and shall contain facts or reasons supporting the request. The requirements of this section do not apply to transporter permits.

(b) If the Department decides the request is not justified, it will send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the Department may be appealed by requesting of the Board of Health and Environmental Control an adjudicatory hearing as specified under R.61-72 Section II within 15 days of the date of the decision. (12/92).

(c) (1) If the Department tentatively decides to modify or revoke and reissue a permit under 270 Subpart D, it will prepare a draft permit under 124.6 incorporating the proposed changes. The Department may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the Department shall require the submission of a new application.

(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(3) "Class 1 and 2 modifications" as defined in 270 Subpart D are not subject to the requirements of this section. (6/97)

(d) If the Department tentatively decides to terminate a permit other than at the request of the permittee, it shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under 124.6. (10/01)

(e) When the Department is the permitting authority, all draft permits (including notices of intent to terminate) prepared under this section shall

be based on the administrative record as defined in 124.9 (12/93).

(f) A generator shipping hazardous waste offsite must either be permitted to transport or utilize a transporter permitted pursuant to 263. (6/89)

#### **124.6 Draft permits under these regulations.**

(a) Once an application is complete, the Department shall tentatively decide whether to prepare a draft permit or to deny the application.

(b) If the Department tentatively decides to deny the permit application, it shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. See 124.6(e). If the Department's final decision (124.15) is that the tentative decision to deny the permit application was incorrect, it shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (d) of this section (12/92; 12/93).

(c) If the Department decides to prepare a draft permit, the Department shall prepare a draft permit that contains the following information:

(1) The approved permit application;  
(2) All conditions under 270.30 and 270.32;  
(3) All compliance schedules under 270.33;  
(4) All monitoring requirements under 270.31 which have not been specified in the permit applications; and

(5) Any condition established under 270.32 necessary to achieve compliance with applicable standards for treatment, storage and/or disposal. Standards for treatment, storage, and/or disposal and other permit conditions under 270.30 (12/93).

(d) All draft permits prepared by the Department under this section shall be accompanied by a fact sheet (124.8), shall be based on the administrative record (124.9), publicly noticed (124.10) and made available for public comment (124.11). The Department shall give notice of opportunity for a public hearing (124.12), issue a final decision (124.15), and respond to comments (124.17). An appeal may be taken under 124.19. Draft permits prepared by the Department shall be accompanied by a fact sheet if required under 124.8 (12/92; 12/93).

#### **124.7 [Reserved]**

#### **124.8 Fact sheet**

(a) The Department shall prepare a fact sheet for every draft permit for a HWM facility or activity. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Department shall

#### **124.10 Public notice of permit actions and public comment period (12/92).**

send this fact sheet to the applicant and, on request, to any other person (12/93).

(b) The fact sheet shall include, when applicable:

(1) A brief description of the type of facility or activity which is the subject of the draft permit;

(2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, or disposed of (12/93).

(3) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions.

(4) Provisions and appropriate supporting references to the administrative record required by 124.9 (12/92);

(5) Reasons why any requested variances or alternatives to required standards do or do not appear justified (12/92);

(6) A description of the procedures for reaching a final decision on the draft permit including (12/92):

(i) The beginning and ending dates of the comment period under 124.10 and the address where comments will be received;

(ii) Procedures for requesting a hearing and the nature of that hearing; and

(iii) Any other procedures by which the public may participate in the final decision.

(7) Name and telephone number of a person to contact for additional information (12/92).

#### **124.9 Administrative record for draft permits under these regulations**

(a) The provisions of a draft permit prepared by the Department under 124.6 shall be based on the administrative record defined in this section.

(b) For preparing a draft permit under 124.6, the record shall consist of:

(1) The application, if required, and any supporting data furnished by the applicant;

(2) The draft permit or notice of intent to deny the application or to terminate the permit;

(3) The fact sheet (124.8) (12/93);

(4) All documents cited in the fact sheet; and

(5) Other documents contained in the supporting file for the draft permit.

(c) Material readily available at the Department or published material that is generally available, and that is included in the administrative record under paragraphs (b) and (c) of this section, need not be physically included with the rest of the record as long as it is specifically referred to in the fact sheet (12/93).

#### **124.10 Public notice of permit actions and public comment period (12/92).**

(a) Scope. Public notice of permit actions and public comment periods covered in this section

**124.10 Public notice of permit actions and public comment period (12/92).**

apply only to treatment, storage, and disposal facilities under these regulations. (6/89; 6/97)

(1) The Department will give public notice when the following actions are to be taken:

(i) A draft permit has been prepared under 124.6; or

(ii) A hearing has been scheduled under 124.12;

(iii) A permit application has been tentatively denied under 124.6(b) (12/92);

(iv) An appeal has been granted under R.61-72 (12/93).

(2) No public notice will be given when a request for permit modification, revocation and reissuance, or termination is denied under 124.5(b). Written notice of that denial shall be given to the requestor and to the permittee. (11/90)

(3) Public notices may describe more than one permit or permit actions.

(4) The applicant will give public notice in accordance with 124.10(c)(5) when an application for a permit is submitted to the Department. The applicant will give public notice of submittal of an application for a permit modification in accordance with 270.42. (6/89, 6/97)

**(b) Timing.**

(1) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under paragraph (a) of this section shall allow at least 45 days for public comment (12/92).

(2) Public notice of a public hearing will be given at least 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.

**(c) Methods.** Public notice of activities described in paragraphs (a)(1) and (a)(4) of this section shall be given by the following methods: (6/89; 6/95)

(1) By mailing a copy of a notice of draft permits or hearings to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits); (6/89; 12/93)

(i) The applicant and those identified in (5); (6/89)

(ii) Any other agency which the Department knows has issued or is required to issue a permit for the same facility or activity;

(iii) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, and other appropriate government authorities, including any

affected States (Indian Tribes). (11/90; 12/92; 12/93)

(iv) Persons on a mailing list developed by:

(A) Including those who request in writing to be on the list;

(B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and

(C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press, and in such publications as Regional and State funded newsletters, environmental bulletins, State law journals. (The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of any person who fails to respond to such a request.) (12/93).

(v) (A) To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and

(B) To each State agency having any authority under State law with respect to the construction or operation of such facility.

(2) Publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations within the area affected by the facility or activity; (6/89 & 11/90)

(3) In a manner constituting legal notice to the public under state law; and

(4) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(5) Public notice of activities described in paragraph (a)(4) shall be given by the applicant by the following methods: (6/89)

(i) Notice to contiguous landowners, as determined by the tax rolls;

(ii) Notice to the county in which the facility site is located and all other political subdivisions within twenty miles of the site;

(iii) Notice to local daily and weekly newspapers within the area affected by the facility or activity, and the major newspaper in Columbia; and

(iv) Notice to the local Chamber of Commerce;

(v) A copy of the permit application to the public library in the county where the site is located.

**(d) Contents.**

#### **124.13 Obligation to raise issues and provide information during the public comment period**

(1) All public notices. All public notices issued under this part shall contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(iv) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, fact sheet, and the application; the location of the administrative record required by 124.9, the times at which the record will be open for public inspection, and a statement that all data submitted by the applicant is available as part of the administrative record (12/92); and

(v) A brief description of the comment procedures required by 124.11 and 124.12 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.

(vi) Any additional information considered necessary or proper.

(2) Public notices for hearings. In addition to the general public notice described in paragraph (d)(1) of this section, the public notice of a hearing under 124.12 will contain the following information:

(i) Reference to the date of previous public notices relating to the permit;

(ii) Date, time, and place of the hearing;

(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

#### **124.11 Public comments and requests for public hearings**

During the public comment period provided under 124.10, any interested person may submit written comments on the draft permit or the permit application and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in 124.17.

#### **124.12 Public hearings**

(a) (1) The Department shall hold a public hearing whenever the Department finds, on the basis of requests, a significant degree of public interest in a draft permit(s) under these regulations (12/92);

(2) The Department may also hold a public hearing at the Department's discretion, whenever for instance, such a hearing might clarify one or more issues involved in the permit decision;

(3) (i) The Department shall hold a public hearing whenever it receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under 124.10(b)(1) (12/93);

(ii) Whenever possible, the Department shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility;

(4) Public notice of the hearing shall be given as specified in 124.10.

(b) Whenever a public hearing will be held and the Department is the permitting authority, the Department shall designate a Presiding Officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(c) Any person may submit oral or written statements and data concerning the application and the draft permit during a hearing. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under 124.10 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(d) A tape recording or written transcript of the hearing shall be made available to the public.

(e) Public notice of any of the above actions shall be issued under 124.10 (11/90).

#### **124.13 Obligation to raise issues and provide information during the public comment period**

All persons, including applicants, who believe the issuance of a permit under these regulations or any condition of a draft permit is inappropriate or that the Department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must notify the Department in writing. This notification must contain all reasonably ascertainable issues, and submit all reasonably available arguments supporting their position by the close of the public comment period (including any public hearing) under 124.10, and factual grounds supporting their position, including any supporting materials which are not already part of the administrative record for the permit. This written notification must be submitted to the



**124.18 Administrative record for final permit under these regulations (12/92).**

Department by the close of the public comment period provided under 124.10 (12/92; 12/93).

**124.14 Reopening of the public comment period**

(a) If any data, information, or arguments submitted during the public comment period, including information or arguments required under 124.13, appear to raise substantial new questions concerning a permit, the Department may take one or more of the following actions:

(1) Prepare a new draft permit, appropriately modified, under 124.6;

(2) Prepare a fact sheet under 124.8 and reopen the comment period under this section; or

(3) Reopen or extend the comment period under 124.10 to give interested persons an opportunity to comment on the information or arguments submitted.

(4) A comment period of longer than 45 days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they shall be granted under 124.10 to the extent they appear necessary (12/92).

(b) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under 124.10 shall define the scope of the reopening.

(c) Public notice of any of the above actions shall be issued under 124.10.

**124.15 Issuance and effective date of permit.**

(a) After the close of the public comment period under 124.10 on a draft permit, the Department shall issue a final permit decision. The Department shall notify in writing the applicant and each person who has submitted written comments or requested notification of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a permit or for contesting a decision to terminate a permit. For the purposes of this section, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit (12/92).

(b) Permit denials will be public noticed by the Department in accordance with 124.10(c)(1) and (2). (11/90)

(c) A final permit decision shall become effective 30 days after the service of notification of the decision under paragraph (a) of this section, unless:

(1) A later effective date is specified in the decision; or

(2) A request for an adjudicatory hearing, as specified under R.61-72 Section II, is served on the

Board within fifteen (15) days after notification of the final permit decision by the Department; or

(3) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

**124.16 [Reserved]**

**124.17 Response to comments**

(a) At the time that any final permit decision under these regulations is issued under 124.15, the Department shall issue a response to comments.

States are only required to issue a response to comments when a final permit is issued. This response shall (12/92; 12/93):

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(2) Briefly describe and respond to all significant comments on the draft permit or the permit application raised during the public comment period, or during any hearing.

(b) Any documents cited in the response to comments shall be included in administrative record for the final permit decision as defined in 124.18. If new points are raised or new material supplied during the public comment period, the Department may document its responses to those matters by adding new materials to the administrative record.

(c) The response to comments shall be available to the public.

**124.18 Administrative record for final permit under these regulations (12/92).**

(a) The Department will base final permit decisions under 124.15 on the administrative record defined in this section.

(b) The administrative record for any final permit shall consist of the administrative record for the draft permit and:

(1) All comments received during the public comment period provided under 124.10 (including any extension or reopening under (124.14);

(2) The tape or transcript of any hearing(s) held under 124.12;

(3) Any written materials submitted at such a hearing;

(4) The responses to comments required by 124.17 and any new material placed in the record under that section;

(5) Other documents contained in the supporting file for the permit; and

(6) The final permit.

(c) The additional documents required under paragraph (b) of this section should be added to the record as soon as possible after their receipt or publication by the Department. The record shall be

complete on the date the final permit is issued (12/92).

(d) This section applies to all final permits when the draft permit was subject to the administrative record requirements of 124.9.

(e) Material readily available at the Department, or published materials which are generally available and which are included in the administrative record under the standards of this section or of 124.17 ("Response to comments"), need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the statement of basis or fact sheet or in the response to comments (12/93).

#### **124.19 Appeal of Permit**

[See also R.61-72, Section II].

(a) A request for an adjudicatory hearing must be served on the Board of Health and Environmental Control within fifteen days following any final administrative decision by the Department on a permit which is a contested case.

(b) The request should be sent to:  
The Board of Health and Environmental Control,  
Attn: Clerk of the Board, Office of the  
Commissioner, 2600 Bull Street, Columbia, SC  
29201, (803) 898-3300

(c) The request, including requirements for filing a petition for administrative review, must comply with R.61-72 as amended. (12/93; 8/00).

#### **Subpart B - Specific Procedures Applicable to RCRA Permits (9/98)**

#### **124.31 Pre-application public meeting and notice.**

(a) Applicability. The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units. The requirements of this section shall also apply to RCRA part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations. For the purposes of this section, a significant change is any change that would qualify as a class 3 permit modification under 270.42. The requirements of this section do not apply to permit modifications under 270.42 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Prior to the submission of a part B RCRA permit application for a facility, the applicant must hold at least one meeting with the public in order to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a

**124.31 Pre-application public meeting and notice.**  
sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

(c) The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under paragraph (b) of this section, and copies of any written comments or materials submitted at the meeting, to the Department as a part of the part B application, in accordance with 270.14(b).

(d) The applicant must provide public notice of the pre-application meeting at least 30 days prior to the meeting. The applicant must maintain, and provide to the Department upon request, documentation of the notice.

(1) The applicant shall provide public notice in all of the following forms:

(i) A newspaper advertisement. The applicant shall publish a notice, fulfilling the requirements in paragraph (d)(2) of this section, in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. In addition, the Department shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Department determines that such publication is necessary to inform the affected public. The notice must be published as a display advertisement.

(ii) A visible and accessible sign. The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in paragraph (d)(2) of this section. If the applicant places the sign on the facility property, then the sign must be large enough to be readable from the nearest point where the public would pass by the site.

(iii) A broadcast media announcement. The applicant shall broadcast a notice, fulfilling the requirements in paragraph (d)(2) of this section, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Department.

(iv) A notice to the Department. The applicant shall send a copy of the newspaper notice to the Department and to the appropriate units of State and local government, in accordance with Sec. 124.10(c)(1)(v).

(2) The notices required under paragraph (d)(1) of this section must include:

(i) The date, time, and location of the meeting;

(ii) A brief description of the purpose of the meeting;

(iii) A brief description of the facility and proposed operations, including the address or a

map (e.g., a sketched or copied street map) of the facility location;

(iv) A statement encouraging people to contact the facility at least 72 hours before the meeting if they need special access to participate in the meeting; and

(v) The name, address, and telephone number of a contact person for the applicant.

#### **124.32 Public notice requirements at the application stage.**

(a) Applicability. The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units. The requirements of this section shall also apply to RCRA part B applications seeking renewal of permits for such units under 270.51. The requirements of this section do not apply to permit modifications under 270.42 or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

(b) Notification at application submittal.

(1) The Department shall provide public notice as set forth in Sec. 124.10(c)(1)(iv), and notice to appropriate units of State and local government as set forth in Sec. 124.10(c)(1)(v), that a part B permit application has been submitted to the Department and is available for review.

(2) The notice shall be published within a reasonable period of time after the application is received by the Department. The notice must include:

(i) The name and telephone number of the applicant's contact person;

(ii) The name and telephone number of the Department contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

(iii) An address to which people can write in order to be put on the facility mailing list;

(iv) The location where copies of the permit application and any supporting documents can be viewed and copied;

(v) A brief description of the facility and proposed operations, including the address or a map (e.g., a sketched or copied street map) of the facility location on the front page of the notice; and

(vi) The date that the application was submitted.

(c) Concurrent with the notice required under Sec. 124.32(b) of this subpart, the Department must

#### **124.33 Information repository.**

place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the Department's office.

#### **124.33 Information repository.**

(a) Applicability. The requirements of this section apply to all applications seeking RCRA permits for hazardous waste management units over which Department has permit issuance authority.

(b) The Department may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Department shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Department determines, at any time after submittal of a permit application, that there is a need for a repository, then the Department shall notify the facility that it must establish and maintain an information repository. (See 270.30(m) for similar provisions relating to the information repository during the life of a permit).

(c) The information repository shall contain all documents, reports, data, and information deemed necessary by the Department to fulfill the purposes for which the repository is established. The Department shall have the discretion to limit the contents of the repository.

(d) The information repository shall be located and maintained at a site chosen by the facility. If the Department finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Department shall specify a more appropriate site.

(e) The Department shall specify requirements for informing the public about the information repository. At a minimum, the Department shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

(f) The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period specified by the Department. The Department may close the repository at his or her discretion, based on the factors in paragraph (b) of this section.